IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE

CRIMINAL REVN.APPLICATION NO.6 OF 1998

Saheblal Nijam Nadaf .. ..Petitioner
(orig. Respdt.No.1)

Versus

Smt. Tarunnam Bashir Nadaf & Anr. ..Respondents

Mr. K.S.Patil for applicant
Mr. Y.M. Nakhwa, APP for respondent
Mr. S.A.Ingawale, for respondent no.1

CORAM : S.C.DHARMADHIKARI,J.
DATE : 7TH NOVEMBER, 2006

P.C.:

1. This criminal revision application is directed against the judgment and order dated 1.1.1998 passed by the learned Second Addl. Sessions Judge, Kolhapur in Criminal Revision Application No.26 of 1994. The learned Addl. Sessions Judge has reversed the judgment and order of the learned Chief Judicial Magistrate, Kolhapur in

Misc. Criminal Application No.326 of 1992.

2. The judgment of the learned Addl. Sessions Judge was rendered on two criminal Revision Applications. The applicant before me is the husband, who has been directed to return the articles listed at Sr.nos.1 to 47 mentioned in the application i.e. Misc. Cri. Application No.326 of 1992 (para 3) or pay a sum of Rs.25,287/= in lieu of the said articles. The first respondent wife was aggrieved by the trial court's order in directing refusal of return of all 47 articles and therefore, preferred a criminal revision application to challenge that part of the order whereby trial court refused said relief. The petitioner-husband challenged the order of the trial court directing the return of 38 articles. Both the applications have been disposed of by a common judgment and order. The first respondent wife's application was allowed and applicant's rejected.

3. When this criminal revision application was admitted by this court, it had made an interim order in terms of prayer clause (c) of this application. That prayer clause prayed for stay of the judgment of the learned Addl. Sessions Judge dated 1.1.1998 during the

pendency of this revision application. However, the stay was granted on a condition that the petitioner-husband deposit a sum of Rs.10,000/= in the Sessions Court at Kolhapur. It is reported that the said amount has been deposited in the Sessions Court.

4. From 1998 till today the judgment of the Addl. Sessions Judge has been stayed by this Court. The monetary worth of the articles at that time was Rs.25,287/=. The physical delivery of the articles back to the wife has been stayed by this Court. There are no instructions forthcoming from the first respondent wife as to whether she has withdrawn the amount of Rs.10,000/= deposited in the Sessions Court. There are no materials produced pointing out the worth of the articles which are directed to be returned. In any event, 38 articles are already covered by the trial court’s order. The lower appellate court has directed return of 47 articles. The worth of these articles is ultimately Rs.25,287/=. That was the value at the relevant time. In such circumstances, instead of going into rival contentions on merits, in the peculiar facts and circumstances of this case, interest of justice would be subserved if the first respondent wife is allowed to withdraw a sum of

Rs.10,000/= which is deposited in the Sessions Court. The Petitioner-husband has not objected to this course as well.

5. In such circumstances, the present application is disposed of by directing that the learned Sessions Judge, Kolhapur shall permit 1st respondent-wife to withdraw the sum of Rs.10,000/= which are deposited in the trial court along with accrued interest, if the same is already not withdrawn.

6. All concerned to act on an authenticated copy of this order.

7. Criminal Revision Application is disposed of.

(S.C.Dharmadhikari, J.)